

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

SHIFT CAPITAL INCOME FUND, LP,

Plaintiff,

v.

BLUEBELL INTERNATIONAL, LLC,

Defendant.

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Case No. 3:20-cv-05121

NOTICE OF REMOVAL

Defendant Bluebell International, LLC, (“Defendant”) hereby removes this action from the Circuit Court of Barton County, Missouri to the United States District Court for the Western District of Missouri, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this removal, Defendant state as follows:

1. On or about 30th day October 2020, an action was commenced against Defendant, in the Circuit Court of Barton County, Missouri, Case No. 20B4-CV00320, entitled Shift Capital Income Fund, LP, vs. Bluebell International, LLC, (the “State Court Action”). The Petition for Damages alleges breach of contract (Count I) and unjust enrichment (Count II).

2. Defendant has attached a copy of the state court file as Exhibit A to this Notice of Removal.

3. Defendant was served in the State Court Action in Wyoming on November 9, 2020 by the Laramie County Sheriff’s Department. Exhibit A, p. 19. Accordingly, this Notice of Removal has been filed within 30 days and is timely pursuant to 28 U.S.C. § 1446(b)(1).

4. By filing this Notice of Removal, Defendant reserves any and all defenses to this action. Defendant specifically denies the existence of personal jurisdiction, and intends to file a motion to dismiss on the issue. Defendant is not waiving the right to challenge personal jurisdiction by filing this Notice of Removal.

5. As specifically noted in the Petition for Damages, the parties to this action are diverse, and neither party is a citizen of Missouri.

6. Paragraph 1 of the Petition for Damages alleges that Plaintiff is a Texas limited partnership with its principal place of business in Texas. Exhibit A, p. 1.

7. Paragraph 2 of the Petition for Damages alleges that Defendant is a Wyoming corporation with its principal place of business in Wyoming. Exhibit A, p. 1.

8. The final “WHEREFORE” paragraph of the Petition for Damages notes that the amount in controversy exceeds \$230,000, well beyond the \$75,000 threshold for diversity jurisdiction. Exhibit A, p. 4.

9. Accordingly, this action is removable on the basis of diversity jurisdiction.

10. Venue is appropriate in the Western District of Missouri because the, Circuit Court Division, of Barton County, is located within this judicial district 28 U.S.C. § 1441(a).

11. Defendant is the only named defendant in the State Court Action and there are no other defendants who would be required to join in this Notice of Removal.

12. Concurrent with the filing of this Notice of Removal in the United States District Court for the Western District of Missouri, Defendant has given notice of the filing

of this Notice of Removal to the Circuit Court of Barton County, Missouri and to Plaintiff through its attorney in compliance with 28 U.S.C. § 1446(d).

WHEREFORE, Defendant Bluebell International, LLC respectfully removes and gives notice of removal of this action from the Circuit Court of Barton County, Missouri.

Respectfully submitted,

FOX ROTHSCHILD, LLP

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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on the 8th day of December 2020, the foregoing NOTICE OF REMOVAL was filed with the Clerk of the Court via the Court's electronic case filing/ECF system which will notify the following counsel of record:

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ATTORNEY FOR PLAINTIFF

/s/ Nicole H. Howell

Attorney for Defendant